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RENATO LIBRIC

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

RENATO LIBRIC,

Defendant.

Case No. 18-CR-00196

**DEFENDANT RENATO LIBRIC'S  
REPLY TO THE GOVERNMENT'S  
OPPOSITION TO DEFENDANT'S  
MOTION FOR COMPASSIONATE  
RELEASE**

Defendant Renato Libric has served 33 months of a 36-month sentence. He has requested this Court grant relief under 18 U.S.C. § 3582(c)(1)(A)(i) and order his release from custody approximately three months early. The Government opposed Mr. Libric's motion on the grounds that he had not demonstrated extraordinary and compelling circumstances. *See* Dkt. 38. Mr. Libric submits the following Reply to the points raised by the Government.

## I. INTRODUCTION

The Government does not dispute this Court’s jurisdiction to grant the relief requested. Dkt. 38 at 3. However, the Government argues that Mr. Libric “has failed to show that [the COVID-19 pandemic’s] impact on him, specifically, warrants his immediate release...because he is not suffering from a medical condition that the CDC has identified as particularly at risk for severe symptoms if he were to contract COVID-19.” *Id.* at 4.

## II. MR. LIBRIC’S MEDICAL CONDITION AND THE CORONAVIRUS PANDEMIC CONSTITUTE AN EXTRAORDINARY AND COMPELLING CIRCUMSTANCE JUSTIFYING HIS RELEASE THREE MONTHS EARLY

The COVID-19 pandemic continues to rage across the United States. There are currently 5,506,929 cases in the United States, which have resulted in 172,416 deaths. *See* “Cases in the US,” Centers for Disease Control and Prevention, available at <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html> accessed August 20, 2020. Cases are rising at a rate of 46,500 new cases per day, while the death rate is at 1,404 new deaths per day. *Id.* Michigan, home of CI North Lake, has suffered 104,091 total cases and 6,618 deaths. *Id.*

Medical and public health experts are unanimous that prisons and jails present an extremely high risk for the respiratory virus to spread once it is introduced. In a research letter published in the Journal of the American Medical Association on August 11, 2020, researchers from Johns Hopkins University and University of California, Los Angeles examined data from state and federal prisons, and found that 42,107 of 1,295,285 prisoners had been infected by COVID-19, resulting in a case rate of 3.25%, which is 5.5 times higher than the case rate of 0.59% in the general population. Saloner, et al., *COVID-19 Cases and Deaths in Federal and State Prisons*, JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION (August 11, 2020). Exhibit 1. The death rate was .039% in prisons, compared to the general population death rate of .029%. *Id.* at 2. After adjusting for age

1 and sex differences between the prison population and the general population, the  
2 researchers concluded that the death rate was three times higher for inmates than non-  
3 inmates. *Id.* By April 2020, the daily growth rate in prisons was 8.3%, surpassing the US  
4 general population daily growth rate of 3.4%. *Id.*

5 The report found that inmates are particularly susceptible to COVID-19 because of  
6 “close confinement, limited access to personal protective equipment, and elevated burden  
7 of cardiac and respiratory conditions that exacerbate COVID-19 risk among prisoners.” *Id.*  
8 at 1. The report noted that the true infection rate in prisons is likely higher than reported  
9 due to the lack of testing and reporting by facilities. *Id.* at 2. The report concluded:  
10 “COVID-19 case rates have been substantially higher and escalating much more rapidly in  
11 prisons than in the US population.” *Id.*

12 “Extraordinary and compelling reasons” that justify release under § 3582(c)(1)(A)(i)  
13 include situations where the defendant is suffering from a serious physical or medical  
14 condition that “substantially diminishes [his] ability to provide self-care within the  
15 environment of a correctional facility.” U.S.S.G. §1B1.13, Application Note 1(A)(ii).  
16 Although the Government correctly notes that the COVID-19 pandemic by itself does not  
17 meet this criteria (Dkt. 38 at 6), due to his hypertension, Mr. Libric is not facing the  
18 “generalized threat[] to the entire population,” as argued by the Government. *See id.* Nor  
19 is Mr. Libric requesting release based on a “manageable underlying medical condition.” *Id.*  
20 at 7. Rather, it is the combination of his underlying medical condition, and the heightened  
21 risk he faces should he contract COVID-19, that substantially diminishes his ability to  
22 provide self-care in the correctional facility and warrants his release.

23 The Government acknowledges that “[t]he combination of an inmate’s chronic  
24 medical condition and the risk of contracting COVID-19 in a custodial setting may  
25 constitute an extraordinary and compelling reason to grant his release.” *Id.* However, the  
26 Government argues that Mr. Libric’s hypertension is not a risk factor for COVID-19. Dkt.  
27 38 at 8. However, the CDC emphasizes that “COVID-19 is a new disease. Currently there  
28 are limited data and information about the impact of underlying medical conditions and

whether they increase the risk for severe illness from COVID-19.” *See* “Certain Medical Conditions and Risk for Severe COVID-19 Illness,” Centers for Disease Control and Prevention, available at <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>, accessed August 20, 2020. Indeed, the CDC continues to warn the public that “cardiovascular or cerebrovascular disease, such as *hypertension (high blood pressure)* or stroke, may increase your risk of severe illness from COVID-19.” *Id.* (emphasis added).

Additionally, the Government argues that CI North Lake does not have any current cases of COVID-19 and the BOP has undertaken steps to prevent the spread of COVID-19 within their facilities. Dkt. 38 at 8-9. The ever-increasing number of COVID-19 cases in the BOP belie the effectiveness of the BOP’s protocols and the ability of inmates to protect themselves from contracting COVID-19. There are currently 1,407 inmates and 616 staff members in BOP facilities with COVID-19. “BOP: COVID-19 Update” available at [bop.gov/coronavirus](http://bop.gov/coronavirus), accessed on August 20, 2020. There have been 11,680 inmates who have contracted COVID-19 and of those, 115 inmates have died from COVID-19. *Id.*

CI North Lake, a contracted correctional institution housing 1,459 federal inmates, is currently not listed on the BOP COVID-19 page, and there is no data available on the BOP website regarding the case rate at CI North Lake. *See id.* However, outside news sources have confirmed COVID-19 is raging within CI North Lake’s walls. As of May 15, 2020, there had been 83 positive tests for COVID-19 amongst inmates and staff members. “North Lake Correctional Facility has had 83 staff, inmate COVID-19 cases,” Cadillac News, available at [https://www.cadillacnews.com/news/north-lake-correctional-facility-has-had-83-staff-inmate-covid-19-cases/article\\_6ecb4e69-72ee-5b82-8f54-827c1babef33.html](https://www.cadillacnews.com/news/north-lake-correctional-facility-has-had-83-staff-inmate-covid-19-cases/article_6ecb4e69-72ee-5b82-8f54-827c1babef33.html), accessed August 20, 2020.

The article observed that “more North Lake inmates have had COVID-19 than inmates at other private prisons for which the BOP releases data,” and notes that The GEO Group, rather than the BOP, is responsible for the medical care of the inmates. *Id.* In a clear repudiation of claims that the virus can be contained within the facility, by May 22,

2020, 70 inmates and 23 staff members were infected. “93 inmates or staff at immigrant prison in Michigan tested positive for coronavirus,” Detroit Free Press, available at <https://www.freep.com/story/news/local/michigan/2020/05/22/north-lake-correctional-facility-baldwin-michigan-coronavirus/5237260002/>, accessed on August 20, 2020. At that time, inmates were warning that North Lake staff members were conducting limited testing and the actual infection numbers were likely higher than reported. *Id.*

By June 1, 2020, the facility saw its first COVID-19 death of an inmate. “Inmate death reported at North Lake Correctional Facility,” Interlochen Public Radio, available at <https://www.interlochenpublicradio.org/post/inmate-death-reported-north-lake-correctional-facility>, accessed on August 20, 2020. At that time, there were 83 confirmed COVID-19 cases of inmates, with 27 currently ill. *Id.* Based on CI North Lake’s population, this results in a case rate of 5.69%, well above the national prison case rate of 3.25%. *See* Saloner, et al., *supra*.

COVID-19 is a novel virus and medical experts are still determining which populations are most at risk; however, the CDC believes that individuals with hypertension may be one of those populations. It is clear that prison facilities throughout the country, and CI North Lake in particular, are unable to prevent the spread of the virus within their facilities. These are extraordinary and compelling circumstances that justify Mr. Libric’s early release of three months.

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### III. CONCLUSION

Mr. Libric is a first-time, nonviolent offender who has completed the lion's share of his sentence without incident. As noted by the Government, he is not a danger to the community. Dkt. 38 at 9. He suffers from a medical condition that increases his risk should he contract COVID-19. He respectfully requests this Court grant his request for compassionate release three months early to allow his deportation to his home country of Croatia.

Dated: August 21, 2020

By: /S/ Patrick S. Aguirre

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Attorney for Defendant,  
RENATO LIBRIC